Senate Bill 1417 (Wright) Chapter 417
Proposition 60/90/110 Base Year Value Transfers
Rescissions
Intercounty Ordinances – Effective Date

Effective January 1, 2001. Amends Section 69.5 of the Revenue and Taxation Code.

This measure 1) requires the assessor, upon a taxpayer's request, to rescind the once in a lifetime base year value transfer for a person over the age of 55 years if the home was vacated within 90 days after the claim is filed, and 2) permits intercounty base year value transfers to be granted prospectively in counties that change the effective date of their ordinance where the period for filing a timely claim would have otherwise expired.

Sponsor: Senator Cathie Wright

Rescissions

Revenue and Taxation Code Section 276.2, 276.3

This bill amends Section 69.5 of the Revenue and Taxation Code to require, notwithstanding any other provision of law, the assessor to grant a property owner's request to rescind a base year value transfer in the case where the new home was vacated as the claimant's principal place of residence within 90 days after the date the original claim for a base year value transfer was filed. The request to rescind the transfer must be made within six years after the transfer was granted.

Law Prior To Amendment:

Pursuant to Propositions 60, 90, and 110, persons who are over the age of 55 years or who are severely and permanently disabled are permitted to transfer, *once in a lifetime*, their Proposition 13 base year value from one home to another of equal or lesser value. Existing law provides that, in certain instances, a claimant may rescind their previously filed claim for a base year value transfer. To qualify for a rescission, the request must be made before property taxes on the new home are delinquent, or before any property tax refund is issued. The assessor may levy a fee to cover the costs of processing the base year value transfer rescission.

In General:

California's system of property taxation under Article XIIIA of the State Constitution (Proposition 13) values property at its 1975 fair market value, with annual increases limited to the amount of inflation or 2%, whichever is less, until the property changes ownership or is newly constructed. At the time of the ownership change or new construction, the value of the property for property tax purposes is redetermined based on current market value. The value initially established, or redetermined where appropriate, is referred to as the "base year value." Thereafter, the base year value is subject to annual increases for inflation. This value is referred to as the "factored base year value."

Proposition 60 (1986) amended the constitution to authorize the Legislature to provide an exception to the general requirement that property be reassessed to current market value by providing for a one-time transfer of base year value from a former principal place of residence to a replacement dwelling, under certain conditions, by qualified persons who are over the age of 55 years. Proposition 90 (1988) further amended the constitution to authorize such base year value transfers to replacement dwellings located in another county, provided the county board of supervisors of that county adopts an ordinance accepting such transfers. Proposition 110 (1990) extended these base year value provisions to persons who are severely and permanently disabled.

Revenue and Taxation Code Section 69.5 provides generally that any person over the age of 55 years, or any person who is severely and permanently disabled, may qualify for relief from provisions of law that would otherwise require a reassessment of a newly acquired residence to current market value. Section 69.5 provides such relief by allowing an eligible claimant to transfer, *one time only,* the existing base year value of a sold residence to the new residence as long as both residences are located in the same county and the new residence is of equal or lesser value. The law permits that a claimant may transfer their base year value to a newly acquired residence that is located in *another* county, but only if the county board of supervisors of the receiving county has adopted an ordinance accepting such base year value transfers. Currently, only 10 of the 58 counties have opted to grant this property tax benefit: Alameda, Kern, Los Angeles, Modoc, Monterey, Orange, San Diego, San Mateo, Santa Clara, and Ventura. In the past, four other counties have had ordinances which are no longer in effect: Contra Costa (repealed 11-8-93), Inyo (repealed 10-13-94), Riverside (repealed 7-1-95), and Marin (repealed 1-16-97).

Comments:

1. **Purpose.** To address a specific case in which a property owner has been unable to obtain a rescission of their base year value transfer after they discovered the climate of the location of their replacement home in Riverside County was not suitable for them. Apparently the property owner would have been eligible to rescind their base year value transfer under existing law if they had been aware of the ability to do so. However, due to a miscommunication with the Riverside County Assessor's Office, they were left with the impression that a rescission was not possible. The property owner subsequently purchased a home in

Ventura County and filed for a base year value transfer. This claim was denied because the property owners had previously received a base year value transfer on their Riverside County home. The property owners appealed this ruling and the Ventura County Assessment Appeals Board has held open their appeal while a legislative solution, which is contained in this measure, is attempted to permit the property owner to rescind the prior base year value transfer.

2. **Key Amendments.** The April 10 amendment provides that the rescission request must be made within six years after the transfer was granted to provide a specific time period after which a rescission would not be permitted. This amendment was made to address a concern raised by Riverside County that the provisions permitting a rescission under this bill (where a person vacates the home 90 days after the original claim was filed) were open ended so that regardless of the number of years that had elapsed after the base year value transfer had been granted, the taxpayer's rescission request would be granted. With this amendment, a rescission request made after the six year time frame would not be permitted. (In the specific case at hand, the transfer was granted in March of 1993 and a written request to rescind the transfer was made in July of 1998.)

3. **Current law permits a homeowner to rescind their base year value transfer after the assessor has processed the transfer request but before the date a tax refund is issued or a tax bill becomes delinquent, as the case may be.** These provisions were added to the law for the specific purpose of clarifying in statute that rescissions were permissible after the issue was raised several times by inquiring assessors and taxpayers. The principle of permitting rescissions is that taxpayers should not be forced to retain a tax benefit when they are willing to repay the tax savings they received.

4. **The base-year value transfer provision is a once in a lifetime benefit.** The long term property tax savings from this benefit can be significant. Some persons have used their one-time benefit on a home which they expected to be their permanent home for their retirement years, but then discovered that home or location was not suitable for a variety of reasons: their health, family needs, or climate.

5. **These provisions make it possible for the property owner in this specific instance to rescind their claim and pay back the property tax savings plus interest to the county.** Where an inter-county transfer is involved, as in this instance, the rescinding county (Riverside County) will ultimately receive <u>more</u> property tax revenue. For instance, if the home was assessed at $100,000 as a result of a base year value transfer, rather than its fair market value of $300,000, then once the recission is granted, the taxpayer would receive a tax bill via an escape assessment based on an additional $200,000 of assessed value per tax year. In addition, this measure provides that interest be added to the escape assessment. The result is a revenue <u>benefit</u> for the rescinding county.

6. **This provision also permits the rescinding county to charge a fee to cover all reasonable costs of processing the rescission request.** Thus, the rescinding county need not incur any unfunded administrative costs.

Intercounty Ordinance – Effective Date

Revenue and Taxation Code Section 69.5

This provision adds subdivision (k) to Section 69.5 to provide that if a county adopts an ordinance with an effective date that is more than three years prior to the actual date the ordinance is adopted, that those persons who would have been eligible to receive a base year value transfer, except that an ordinance had not been in effect at the time they purchased their home and who would otherwise be precluded from filing a "timely" claim because the three year period to file a claim had elapsed, could file and receive a base year value transfer on a prospective basis. A base year value transfer that is granted under this provision would not result in a refund or cancellation of property taxes previously paid. Thus, the base year value transfer would be granted prospectively.

Sponsor: Ventura County Assessor

Law Prior To Amendment:

Existing law provides that a claimant may transfer their base year value to a newly acquired residence that is located in another county, but only if the county board of supervisors of the receiving county has adopted an ordinance accepting such base year value transfers. Section 69.5(a)(2)(E) provides that a county may specify an effective date that is earlier than the actual date the ordinance is adopted, but no earlier than November 9, 1988 (the effective date of Proposition 90).

Section 69.5(e)(B)(5) requires, in part, that to receive a base year value, a person must file a claim within three years of the date the replacement home is purchased or constructed.

Comment:

Purpose. Ventura County adopted an intercounty base year value transfer ordinance on May 4, 1992. The county would like to amend their ordinance to specify an effective date that coincides with the effective date of Proposition 90, so that persons who purchased a replacement home between November 9, 1988 and May 4, 1992, and previously ineligible to receive a base year value transfer, can receive this property tax benefit on a prospective basis. While Ventura County may amend the effective date of their ordinance under current law, it would have no practical effect since a claim must be filed within three years of the date the replacement property is purchased. To remedy this situation, this measure would allow a three year filing period that commences on the new date the ordinance is adopted.